

Jon Cieslak (268951)  
jon.cieslak@bonalawpc.com  
Bona Law PC  
4275 Executive Square, Suite 200  
La Jolla, CA 92037  
(858) 964-4589  
(858) 964-2301 (fax)

*Counsel for Defendant GeoZilla Inc.*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

Social Positioning Input Systems, LLC,

Plaintiff,

vs.

GeoZilla Inc.,

Defendant.

Case No. 4:21-cv-07073-HSG

**GEOZILLA INC.'S NOTICE OF  
MOTION AND MOTION TO DISMISS  
FOR FAILURE TO STATE A CLAIM  
UNDER RULE 12(b)(6); AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT  
THEREOF**

Date: June 2, 2022

Time: 2:00 p.m.

Courtroom: Hon. Haywood S. Gilliam, Jr.

**TABLE OF CONTENTS**

	<u>Page</u>
I. INTRODUCTION.....	2
II. BACKGROUND AND STATEMENT OF FACTS.....	3
A. <i>Rothschild</i> Patent Applications: Application Embodiments.....	3
B. <i>Rothschild</i> '890 Patent Application: Prosecution History.....	6
C. <i>Rothschild</i> '193 Patent Application: Prosecution History.....	8
D. Plaintiff SPIS: GPS Tracker Application/GPS Tracker Device.....	9
E. Defendant GeoZilla: GPS Tracker Application/GPS Tracker Device.....	10
III. ARGUMENT.....	11
A. Federal Rule of Civil Procedure 12(b)(6).....	11
B. Failure to State a Claim.....	13
IV. CONCLUSION.....	15

**TABLE OF AUTHORITIES**

**Cases**

**Page(s)**

<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009) .....	2, 11, 12, 13
<i>Bell v. Twombly</i> , 550 U.S. 544 (2007) .....	2, 11, 12, 13
<i>Bot M8 LLC v. Sony Corp. of Am.</i> , 4 F.4th 1342 (Fed. Cir. July 13, 2021) .....	11, 12
<i>Disc Disease Sols. Inc. v. VGH Sols., Inc.</i> , 888 F.3d 1256 (Fed. Cir. 2018) .....	12
<i>Erickson v. Pardus</i> , 551 U.S. 89 (2007) .....	13
<i>K-Tech Telecomms., Inc. v. Time Warner Cable, Inc.</i> , 714 F.3d 1277 (Fed. Cir. 2013) .....	12
<i>Kniesel v. ESPN</i> , 393 F.3d 1068 (9th Cir. 2005) .....	2
<i>Lifetime Indus., Inc. v. Trim-Lok, Inc.</i> , 869 F.3d 1372 (Fed. Cir. 2017) .....	12
<i>Skinner v. Switzer</i> , 562 U.S. 521 (2011) .....	11

**RULES AND STATUTES**

35 U.S.C. § 102 .....	7
35 U.S.C. § 103 .....	8
35 U.S.C. § 271 .....	1
Fed. R. Civ. P. 8 .....	11
Fed. R. Civ. P. 12 .....	1, 6, 11

**NOTICE OF MOTION AND MOTION TO DISMISS**

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on June 2, 2022 at 2:00 p.m. or as soon thereafter as the matter may be heard in this Court, located at Oakland Courthouse, Courtroom 2, 4th Floor, 1301 Clay Street, Oakland, CA 94612, Defendant GeoZilla Inc. (the “Defendant GeoZilla”) will and hereby does move the Court to dismiss Plaintiff Social Positioning Input Systems, LLC’s (the “Plaintiff SPIS”) Complaint (Dkt. 1) with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6) on the grounds that the Complaint fails to plead facts that are plausible that the Defendant GeoZilla infringes the claims of U.S. Patent No. 9,261,365 to *Rothschild* (the “*Rothschild* ‘365 Patent”) (Dkt. 1, ¶¶ 30–47) under 35 U.S.C. § 271. This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the Declaration of Darrin Blaine, pleadings, all matters of which the Court may take judicial notice and any other arguments or evidence that may be presented in support of this Motion.

**STATEMENT OF RELIEF REQUESTED**

This Motion seeks to demonstrate the Plaintiff SPIS did not allege plausible facts in the Complaint that claims 1–15 of the *Rothschild* ‘365 Patent are infringed by Defendant GeoZilla under 35 U.S.C. § 271. The Defendant GeoZilla requests that this Court dismiss the Plaintiff SPIS’ Complaint with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6), because the Complaint fails to plead facts that are plausible that the Defendant GeoZilla infringes claims 1–15 of the *Rothschild* ‘365 Patent under 35 U.S.C. § 271 in view of a prosecution history of a family of patent applications including the patent application of the *Rothschild* ‘365 Patent.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

On September 13, 2021, Plaintiff SPIS filed a Complaint with this Court accusing Defendant GeoZilla of infringing at least independent claim 1 of U.S. Patent No. 9,261,365 to *Rothschild* (the “*Rothschild* ‘365 Patent”). Dkt. 1, ¶¶ 30–47. The Court should dismiss the claim because it does not plausibly allege infringement. Indeed, Plaintiff brings its claims against technology that its patent application *specifically disavowed*, and it can never plausibly allege infringement.

The prosecution history of the *Rothschild* Patent Applications establishes that the *Rothschild* ‘365 Patent is limited to technology that shares *address* information, i.e. by sending address information from one device to another, rather than sharing Global Positioning System (the “GPS”) coordinate information or other location information. Accordingly, to plead infringement, Plaintiff must allege facts showing that GeoZilla shares *address* information between devices, rather than some other form of location information. But the Complaint’s allegations about this material fact are entirely conclusory and insufficient to under the *Twombly/Iqbal* standard. Indeed, GeoZilla’s website—which Plaintiff identifies as the source of its allegations (and thereby incorporates by reference)<sup>1</sup>—demonstrates that GeoZilla does not share address information. Accordingly, the Court should find that the Plaintiff’s infringement allegations are insufficient and dismiss the Complaint.

---

1. See *Knievel v. ESPN*, 393 F.3d 1068, 1076–77 (9th Cir. 2005).

1 **I. BACKGROUND AND STATEMENT OF FACTS**

2 **A. *Rothschild* Patent Applications: Application Embodiments**

3 The *Rothschild* Patent Applications are entitled “Device, system and method for  
4 remotely entering, storing and sharing addresses for a positional information device” and  
5 the Detailed Description of the *Rothschild* Patent Applications describes various  
6 application embodiments of the devices, systems and methods disclosed in the *Rothschild*  
7 Patent Applications.  
8

9 A first application embodiment of the *Rothschild* Patent Applications involves a  
10 driver of a vehicle operating a GPS device therein to request an address of a point-of-  
11 interest location from a service operator of a server storing the address of the point-of-  
12 interest location. In response thereto, the service operator inputs the address of the point-  
13 of-interest location into a server, which (a) resolves the inputted address of the point-of-  
14 interest location into coordinates of the point-of-interest location and (b) transmits the  
15 resolved coordinates of the point-of-interest location to the GPS device in the driver vehicle  
16 for guidance purposes. *See the Rothschild ‘365 Patent at column 12, lines 9-26.*  
17

18 A second application embodiment of the *Rothschild* Patent Applications involves a  
19 driver of a vehicle operating a GPS device therein to request assistance from a service  
20 operator of a server to identify an address of a point-of-interest location. In response  
21 thereto, (a) the service operator identifies the address of the point-of-interest location as  
22 stored in the server via a discussion with the driver about the point-of-interest location, (b)  
23 the server resolves the identified address of the point-of-interest location into coordinates  
24 of the point-of-interest location and (b) the server transmits the resolved coordinates of the  
25  
26  
27  
28

1 point-of-interest location to the GPS device in the driver vehicle for guidance purposes.  
2 See the *Rothschild* '365 Patent at column 12, lines 27–39.

3 A third application embodiment of the *Rothschild* Patent Applications involves a  
4 driver of a vehicle operating a GPS device therein to request assistance from a service  
5 operator of a server to determine an accurate address of a point-of-interest location. In  
6 response thereto, (a) the service operator determines an accurate address of the point-of-  
7 interest location as stored in the server via a discussion with the driver about information  
8 of the point-of-interest location, (b) the server resolves the accurate address of the point-  
9 of-interest location into coordinates of the point-of-interest location and (c) the server  
10 transmits the resolved coordinates of the point-of-interest location to the GPS device in the  
11 driver vehicle for guidance purposes. See the *Rothschild* '365 Patent at column 12, line 40  
12 to column 13, line 2.  
13  
14

15 A fourth application embodiment of the *Rothschild* Patent Applications involves a  
16 user of a computer planning an itinerary of a trip to multiple point-of-interest locations. A  
17 GPS application stored on the computer (a) resolves the addresses of the planned point-of-  
18 interest locations into coordinates of the point-of-interest locations and (b) transmits the  
19 resolved coordinates of the point-of-interest locations to a GPS device in a vehicle of the  
20 computer user. Alternatively, the fourth application embodiment of the *Rothschild* Patent  
21 Applications involves a driver of a vehicle operating a GPS device therein to request  
22 assistance from a service operator of a server to identify addresses of point-of-interest  
23 locations within an itinerary stored within the GPS device of the vehicle. In response  
24 thereto, (a) the service operator identifies the addresses of the point-of-interest location as  
25 stored in the server, (b) the server resolves the identified addresses of the point-of-interest  
26  
27  
28

1 locations into coordinates of the point-of-interest locations and (c) the server transmits the  
2 resolved coordinates of the point-of-interest locations to the GPS device in the driver  
3 vehicle for guidance purposes. *See the Rothschild '365 Patent at column 13, lines 3–17.*

4 A fifth application embodiment of the *Rothschild Patent Applications* involves a  
5 driver of a vehicle booking a hotel reservation or a concert event via an online service that  
6 provides directions to an address of the hotel location or the concert event location. In  
7 response to receiving a link from the driver of a GPS device within the vehicle, the online  
8 service (a) resolves the identified address of the hotel location or the concert event location  
9 into coordinates of the hotel location or the concert event location and (b) transmits the  
10 resolved coordinates of the hotel location or the concert event location to the GPS device  
11 in the driver vehicle for guidance purposes. *See the Rothschild '365 Patent at column 13,*  
12 *lines 18–28.*

13 A sixth and final application embodiment of the *Rothschild Patent Applications*  
14 involves a driver of a vehicle operating a GPS device therein to request an address(es) of  
15 point-of-interest stored within a remote GPS device in a different vehicle. In response to a  
16 service operator receiving this request and the driver having authorization to make the  
17 request, the service operator (a) looks up and retrieves the address(es) of the point-of-  
18 interest as stored on the remote GPS device and (b) transmits locations address(es)  
19 address(es) of the point-of-interest to the GPS device in the driver vehicle. Alternatively,  
20 in response to a service operator receiving this request and the driver having authorization  
21 to make the request, the service operator (a) looks up and retrieves the address(es) of the  
22 point-of-interest locations as stored on the remote server and (b) transmits the retrieved  
23 address(es) of the point-of-interest locations to the GPS device in the driver vehicle for  
24  
25  
26  
27  
28



1 guidance purposes. In either case, the service operator may (a) resolve the retrieved  
 2 address(es) of the point-of-interest locations into coordinates of the point-of-interest  
 3 locations and (b) transmit the resolved coordinates of the point-of-interest locations to the  
 4 GPS device in the driver vehicle for guidance purposes. *See* the *Rothschild* ‘365 Patent at  
 5 column 13, lines 29–46.  
 6

7 Of importance to note is the sixth application embodiment of the *Rothschild* Patent  
 8 Applications will be referred herein as “Address Sharing,” which served as a basis for an  
 9 allowance and an issuance of the *Rothschild* ‘365 Patent by the USPTO.

#### 10 **B. *Rothschild* ‘890 Patent Application: Prosecution History**

11 The scope of the original claims 1–41 of the *Rothschild* ‘890 Patent Application as  
 12 originally filed at the USPTO recited limitations encompassing both (1) a request, a  
 13 determination and a transmission of *coordinates* of a remote mobile positional information  
 14 device for a real-time tracking by a local positional information device of a transient  
 15 location of the remote mobile positional information device in view of the remote mobile  
 16 positional information device not having an associated address (the “Device Tracking”)  
 17 and (2) a request, a determination and a transmission of *coordinates* of a point-of-interest  
 18 location as stored in a remote positional information device that is shared with a local  
 19 positional information device (the “Coordinate Sharing”).<sup>2</sup> *See* Ex. 1: *Rothschild* ‘890  
 20 Patent Application at 29–35.  
 21  
 22

23 An example of a positional information device is a stand-alone GPS device or a  
 24 computer/server incorporating a GPS device.  
 25  
 26

---

27 2. All exhibits are attached to the Declaration of Darrin Blaine in Support of Motion  
 28 to Dismiss for Failure to State a Claim Under Rule 12(b)(6), filed herewith.

During the prosecution of the *Rothschild* ‘890 Patent Application by the USPTO, claims 1–17 and 37 were withdrawn from consideration and claims 18–20, 22–26, 29–31, 35–36, 38–39 and 41 were rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent Application Publication No. US 2004/0228489 A1 to *Ishibashi* et al. (the “*Ishibashi* ‘489 Patent Application”) based on a teaching by the *Ishibashi* ‘489 Patent Application directed to the Device Tracking. See Ex. 2: Non-Final Office Action of *Rothschild* ‘890 Patent Application, ¶¶ 4–5.

To obviate the 35 U.S.C. § 102(a) rejection of claims 18–20, 22–26, 29–31, 35–36, 38–39 and 41 as being anticipated by the *Ishibashi* ‘489 Patent Application, the Applicant of the *Rothschild* ‘890 Patent Application **did not** submit an argument that the *Ishibashi* ‘489 Patent Application failed to teach Device Tracking. Instead, the Applicant of the *Rothschild* ‘890 Patent Application cancelled claims 1–24 , amended claims 25–41 and added claims 42–44 to narrow the Coordinate Sharing limitations of claims 18–20, 22–26, 29–31, 35–36, 38–39 and 41 as originally filed to Address Sharing limitations encompassing (a) a request for **an address** of a location not stored in a positional information device, (b) a determination of **the requested address** of the location, and (c) a transmission of **the determined address** of the location to the positional information device.

See Ex. 3: Amendment of *Rothschild* ‘890 Patent Application, at 4–8, 10–13.

Of importance to note is that the narrow claim coverage of Address Sharing as amended and added into the *Rothschild* ‘890 Patent Application served as a basis for an allowance and an issuance by the USPTO as U.S. Patent No. 7,917,285 B2 to *Rothschild* (the “*Rothschild* ‘285 Patent”) as being patentable over the *Ishibashi* ‘489 Patent Application. See Ex. 4: U.S. Patent No. 7,817,285 B2.

1           **C.       *Rothschild* ‘193 Patent Application: Prosecution History**

2           The *Rothschild* ‘193 Patent Application was filed in the USPTO subsequent to the  
3 issuance of the *Rothschild* ‘285 Patent, and the original claims 1–15 of *Rothschild* ‘193  
4 Patent Application were directed to Address Sharing limitations encompassing (a) a request  
5 from a first positional information device for *an address* of a location stored in a second  
6 positional information device, (b) a retrieval of *the stored address* of the location from the  
7 second positional device, and (c) a transmission of *the retrieved address* of the location to  
8 the first positional information device. *See* Ex. 5: *Rothschild* ‘193 Patent Application at  
9 30–33.  
10

11           During the prosecution of the *Rothschild* ‘193 Patent Application by the USPTO,  
12 claims 1–3, 6–10 and 12–14 were initially rejected under 35 U.S.C. § 103(a) as being  
13 unpatentable over U.S. Patent Application Publication No. US 2006/0041374 A1 to *Inoue*  
14 (the “*Inoue* ‘489 Patent Application”) in view of U.S. Patent Application Publication No.  
15 US 2003/0126264 A1 to *Chithambaram* et al. (the “*Chithambaram* ‘264 Patent  
16 Application”) and claims 4–5, 11 and 15 were initially rejected under 35 U.S.C. § 103(a)  
17 as being unpatentable over the *Inoue* ‘489 Patent Application in view of the *Chithambaram*  
18 ‘264 Patent Application and in further view of U.S. Patent Application Publication No. US  
19 2003/0064245 A1 to *Knockeart* et al. (the “*Knockeart* ‘245 Patent Application”). *See* Ex.  
20 6: Non-Final Office Action for *Rothschild* ‘193 Patent Application, ¶¶ 4–6, based on a  
21 teaching by *Ishibashi* ‘489 Patent Application directed to the Device Tracking; *see* Ex. 6:  
22 Non-Final Office Action of *Rothschild* ‘890 Patent Application, ¶¶ 4–5.  
23  
24

25           To obviate the 35 U.S.C. § 103(a) rejections of claims 1–15 as being unpatentable  
26 over the *Inoue* ‘489 Patent Application in view of the *Chithambaram* ‘264 Patent  
27  
28

Application and the *Knockeart* ‘245 Patent Application, and to clarify the scope of claims 1–15, the Applicant of the *Rothschild* ‘193 Patent Application finally amended claims 1–15 more narrowly recite Address Sharing limitations encompassing (a) a request from a requesting positional information device for *an address* of a location stored in one or more sending positional information devices, (b) a retrieval by a server of *the stored address* of the location from the second positional device(s), and (c) a receipt by the first positional information device of the *retrieved address* of the location from the server. *See* Ex. 7: Amendment C of *Rothschild* ‘890 Patent Application at 2–8.

Of importance to note again is the narrower claim coverage of Address Sharing as amended into the *Rothschild* ‘193 Patent Application served as a basis for an allowance and an issuance by the USPTO over the *Ishibashi* ‘489 Patent Application, the *Inoue* ‘489 Patent Application, the *Chithambaram* ‘264 Patent Application and the *Knockeart* ‘245 Patent Application.

**D. Plaintiff SPIS: GPS Tracker Application/GPS Tracker Device**

The Plaintiff SPIS has submitted an Infringement Claim Chart for U.S. Patent No. 9,261,365 against GeoZilla as Exhibit 2 to the Complaint. *See* Dkt. 1, Ex. 2. More particularly, the Plaintiff SPIS attempts to demonstrate infringement of independent claim 1 of the *Rothschild* ‘365 Patent (1) by a GPS Tracker Application sold by GeoZilla, which allegedly serves as a requesting positional informational device as recited in independent claim 1 of the *Rothschild* ‘365 Patent and (2) by a GPS Tracker Device sold by GeoZilla, which allegedly serves as a sending positional informational device as recited in independent claim 1 of the *Rothschild* ‘365 Patent. In support of these infringement

1 allegations, Plaintiff SPIS cites various web pages of a website (<http://geozilla.com/>)  
 2 hosted by the Defendant GeoZilla.

3 Plaintiff SPIS further asserts conclusory statements encompassing (a) a request  
 4 from the GeoZilla GPS Tracker Application as stored on a mobile phone for *an address* of  
 5 a location stored in the GeoZilla GPS Tracker Device, (b) a retrieval by a GeoZilla server  
 6 of *the stored address* of the location from the GeoZilla GPS Tracker Device, and (c) a  
 7 receipt by the GeoZilla GPS Tracker Application of the *retrieved address* of the location  
 8 from the GeoZilla server.  
 9

10 **E. Defendant GeoZilla: GPS Tracker Application/GPS Tracker Device**

11 A careful review of column 5, lines 17–36 of the *Rothschild* ‘365 Patent reveals  
 12 *Rothschild* ‘365 Patent teaches GPS technology may be employed to indicate the exact  
 13 coordinates of a location of a device, and that the exact coordinates may be used to interact  
 14 with a map to determine city, state and/or address of the location of the device.  
 15

16 A review of a “How Does GeoZilla Tracker Work? - GeoZilla” webpage of the  
 17 website <http://geozilla.com/> hosted by the Defendant GeoZilla reveals the GeoZilla GPS  
 18 Tracker Device employs GPS technology and Cell ID technology to accurately track  
 19 transient locations of the GeoZilla GPS Tracker Device. It further reveals the Defendant  
 20 GeoZilla does not describe, teach or suggest the GeoZilla GPS Tracker Device interacting  
 21 with a map to determine and store a city, a state and/or an address of a tracked location of  
 22 the GeoZilla GPS Tracker Device. *See* Ex. 8: “How Does GeoZilla Tracker Work? -  
 23 GeoZilla. In short, the GeoZilla GPS Tracker Device does not send *address* information.  
 24

25 Regarding the GeoZilla GPS Tracker Application, a review of a “How Does  
 26 GeoZilla Tracker Work? - GeoZilla” webpage of the website <http://geozilla.com/> hosted  
 27  
 28

1 by the Defendant GeoZilla reveals the GeoZilla GPS Tracker Application *uses a mobile*  
 2 *telephone's own geocoding system to provide the street address of a location*, it does not  
 3 receive an address from the GPS Tracker Device. It further reveals the Defendant GeoZilla  
 4 does not describe, teach or suggest the GeoZilla GPS Tracker Application requesting an  
 5 address of a tracked location of the GeoZilla GPS Tracker Device as stored in the GeoZilla  
 6 GPS Tracker Device. *See* Ex. 9: "How Does GeoZilla Tracker Work? - GeoZilla. In short,  
 7 the GeoZilla GPS Tracker Application does not receive *address* information from the  
 8 tracking device, it obtains it from the mobile telephone.  
 9

10 In summary, the GPS Tracker Device employs GPS technology and Cell ID  
 11 technology to accurately track and share location information of the GeoZilla GPS Tracker  
 12 Device with the GPS Tracker Application, and the application separately uses a mobile  
 13 telephone's geocoding system to provide the street address of that location.  
 14

### 15 **III. ARGUMENT**

#### 16 **A. Legal Standard**

17 As set forth in *Bot M8 LLC v. Sony Corporation of America*, as related to a claim  
 18 of patent infringement, a Federal Rule of Civil Procedure 8(a)(2) "generally requires only  
 19 a plausible 'short and plain' statement of the plaintiff's claim," showing that the plaintiff  
 20 is entitled to relief. 4 F.4th 1342 (Fed. Cir. July 13, 2021); *Skinner v. Switzer*, 562 U.S.  
 21 521, 530 (2011). To survive a motion to dismiss under Rule 12(b)(6), a complaint must  
 22 "contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible  
 23 on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v.*  
 24 *Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff  
 25 pleads factual content that allows the court to draw the reasonable inference that the  
 26  
 27  
 28

1 defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. “Threadbare recitals  
2 of the elements of a cause of action, supported by mere conclusory statements, do not  
3 suffice.” *Id.* (citing *Twombly*, 550 U.S. at 555). “Determining whether a complaint states a  
4 plausible claim for relief [is] a context-specific task that requires the reviewing court to  
5 draw on its judicial experience and common sense.” *Iqbal*, 556 U.S. at 679.

6  
7 A plaintiff is not required to plead infringement on an element-by-element basis.  
8 *Bot M8*, 4 F.4th at 1352 (“The Federal Rules of Civil Procedure do not require a plaintiff  
9 to plead facts establishing that each element of an asserted claim is met.”); *see Disc Disease*  
10 *Sols. Inc. v. VGH Sols., Inc.*, 888 F.3d 1256, 1260 (Fed. Cir. 2018) (finding that a plaintiff  
11 need not plead every element, but must only give the alleged infringer fair notice of  
12 infringement). Instead, it is enough “that a complaint places the alleged infringer ‘on notice  
13 of what activity is being accused of infringement.’” *Lifetime Indus., Inc. v. Trim-Lok, Inc.*,  
14 869 F.3d 1372, 1379 (Fed. Cir. 2017) (quoting *K-Tech Telecomms., Inc. v. Time Warner*  
15 *Cable, Inc.*, 714 F.3d 1277, 1284 (Fed. Cir. 2013)).

16  
17 The relevant inquiry under *Iqbal/Twombly* is whether the factual allegations in the  
18 complaint are sufficient to show that the plaintiff has a plausible claim for relief. *Iqbal*, 556  
19 U.S. at 679. “The plausibility standard is not akin to a ‘probability requirement,’ but it asks  
20 for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* at 678. In other  
21 words, a plausible claim must do more than merely allege entitlement to relief; it must  
22 support the grounds for that entitlement with sufficient factual content. *Id.* “[A] plaintiff’s  
23 obligation to provide the ‘grounds’ of his ‘entitlement to relief’ requires more than labels  
24 and conclusions, and a formulaic recitation of the elements of a cause of action will not  
25 do.” *Twombly*, 550 U.S. at 555. The level of detail required in any given case will vary  
26  
27  
28

1 depending upon a number of factors, including the complexity of the technology, the  
2 materiality of any given element to practicing the asserted claim(s), and the nature of the  
3 allegedly infringing device. Accordingly, a plaintiff cannot assert a plausible claim for  
4 infringement under the *Iqbal/Twombly* standard by reciting the claim elements and merely  
5 concluding that the accused product has those elements. There must be some factual  
6 allegations that, when taken as true, articulate why it is plausible that the accused product  
7 infringes the patent claim. While the Supreme Court has said that “[f]actual allegations  
8 must be enough to raise a right to relief above the speculative level,” *Twombly*, 550 U.S.  
9 at 555, it has also indicated that “[s]pecific facts are not necessary; the statement need only  
10 ‘give the defendant fair notice of what the claim is and the grounds upon which it rests,’”  
11 *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (quoting *Twombly*, 550 U.S. at 555).  
12  
13

14 **B. Plaintiff Fails to State a Claim**

15 Plaintiff SPIS cannot assert a plausible claim for infringement by merely reciting  
16 the claim elements of independent claim 1 of the *Rothschild* ‘365 Patent, and then  
17 concluding that the GeoZilla GPS Tracker Application and the GeoZilla GPS Track Device  
18 has those claim elements. The Complaint must also include some factual allegations that  
19 articulate why it is plausible that the GeoZilla GPS Tracker Application and the GeoZilla  
20 GPS Track Device infringe independent claim 1 of the *Rothschild* ‘365 Patent. But the  
21 Complaint lacks these factual allegations.  
22

23 Furthermore, Plaintiff cannot plead plausible facts in light of the claims limitations  
24 of independent claim 1 of the *Rothschild* ‘365 Patent, which are directed to Address Sharing  
25 limitations encompassing (a) a request from a requesting positional information device for  
26 *an address* of a location stored in one or more sending positional information devices, (b) a  
27  
28



1 retrieval by a server of *the stored address* of the location from the second positional  
2 device(s), and (c) a receipt by the first positional information device of the *retrieved address*  
3 of the location from the server. This is particularly important here because the Address  
4 Sharing limitations of independent claim 1 of the *Rothschild* ‘365 Patent were the basis for  
5 an allowance and the issuance of the patent by the USPTO over the *Ishibashi* ‘489 Patent  
6 Application, the *Inoue* ‘489 Patent Application, the *Chithambaram* ‘264 Patent Application  
7 and the *Knockeart* ‘245 Patent Application.  
8

9       Thus, the Complaint is required to have factual allegations supporting the  
10 conclusory statements by Plaintiff SPIS in the Complaint that the GeoZilla GPS Tracker  
11 Application and the GeoZilla GPS Track Device practice (a) a request from the GeoZilla  
12 GPS Tracker Application as stored on a mobile phone for *an address* of a location stored  
13 in the GeoZilla GPS Tracker Device, (b) a retrieval by a GeoZilla server of *the stored*  
14 *address* of the location from the GeoZilla GPS Tracker Device, and (c) a receipt by the  
15 GeoZilla GPS Tracker Application of the *retrieved address* of the location from the  
16 GeoZilla server. However, the Complaint lacks these allegations and GeoZilla’s website  
17 —which is the foundation of the Complaint’s allegations—actually shows that GeoZilla’s  
18 technology shares *location* information rather than *address* information.  
19  
20

21       Furthermore, the Defendant respectfully asserts that GeoZilla’s website fails to  
22 provide any facts that the GeoZilla GPS Tracker Application requests an address of a  
23 tracked location of the GeoZilla GPS Tracker Device as stored in the GeoZilla GPS Tracker  
24 Device, and fails to provide any facts that, in response to such a request, the GeoZilla GPS  
25 Tracker Device retrieves a stored tracked location of the GeoZilla GPS Tracker Device and  
26 the GeoZilla GPS Tracker Application receives the retrieved location of the GeoZilla GPS  
27  
28

1 Tracker Device. As such, the Complaint brings infringement claims against technology—  
2 the sharing of *location* information—that the *Rothschild* Patent Applications specifically  
3 disavowed.

4 Consequently, Plaintiff SPIS fails to plausibly allege that the GeoZilla GPS Tracker  
5 Application and the GeoZilla GPS Track Device infringe independent claim 1 of the  
6 *Rothschild* ‘365 Patent, and the Complaint should be dismissed.

#### 8 IV. CONCLUSION

9 For the foregoing reasons, Defendant GeoZilla respectfully requests that the Court  
10 dismiss Plaintiff SPIS’ Complaint for failure to state a claim upon which relief is granted.  
11 Further, because leave to amend the Complaint by Plaintiff SPIS would be futile,  
12 Defendant GeoZilla respectfully request dismissal with prejudice.  
13

14  
15 Respectfully submitted,

16 DATED: April 6, 2022

*s/Jon Cieslak*

---

JON CIESLAK (268951)

Bona Law PC

4275 Executive Square, Suite 200

La Jolla, CA 92037

858.964.4589

jon.cieslak@bonalawpc.com

*Counsel for Defendant GeoZilla Inc.*